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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/633,050	08/04/2000	Bjorn Espenes	4279 P	2988

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EXAMINER	
GART, MATTHEW S	

ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 12/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/633,050	Applicant(s) ESPENES ET AL.	
	Examiner Matthew s Gart	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *08 May 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Claims 1-16 are pending in the current application. Claims 17-25 were canceled via Paper No. 11. Claim 1 was amended via Paper No. 11.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 7-14, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Bezos U.S. Patent No. 6,029,141.

Referring to claim 1. Bezos discloses a method for enhancing the process of e-commerce, with the assistance of computer hardware and computer software establishing an Internet marketplace, comprising the steps of:

- Receiving product information into a product information database of a computer system (at least abstract, "Following registration, the associate sets up a Web

site to distribute hypertextual catalog documents that includes marketing information about selected products of the merchant.");

- Mapping said product information into product categories, in a product category database in said computer system (at least claim 23 to claim 25);
- Assigning said product information into a template, said template having an appearance and one or more features (at least Fig. 6 and column 11, lines 43-62);
- Populating said template with said product information (at least Fig. 6 and column 11, lines 43-62);
- Selecting a group of on-line marketplaces, dynamically adjusting said template appearance and features based on said selected group of on-line marketplaces (at least column 1, line 50 to column 2, line 18);
- Broadcasting said populated template to said group of on-line marketplaces (at least column 1, line 50 to column 2, line 18);
- Tracking activity on said broadcasted templates, and recording said tracked activity in an activity database in said computer system (at least column 13, lines 10-28);
- Communicating said activity to a client (at least column 16, lines 11-19);
- Refining an on-line marketplace selection criteria, wherein said refining further comprises analyzing product placement activity, sales transactions and e-commerce marketplace filters of one or more of said selected on-line marketplaces; (at least column 3, lines 26-41); and

- Optimizing an e-commerce channel mix and product offerings by placing said product template in an appropriate time and on one or more of said selected on-line marketplaces based on said product placement activity and said sales transactions.

Referring to claim 2. Bezos further discloses a method comprising receiving and storing client information (at least Fig. 1 and Fig. 2).

Referring to claim 3. Bezos further discloses a method comprising sending e-mail communication to consumers (at least column 1, lines 50-61).

Referring to claim 4. Bezos further discloses a process comprising sending report information to clients (at least column 1, lines 50-61).

Referring to claim 5. Bezos further discloses a method wherein said receiving product information further comprises receiving description, price and quantity information (at least Fig. 8).

Referring to claim 7. Bezos further discloses a method wherein said assigning product information into a template further comprises dynamically modifying the content of said template based on the selected e-commerce marketplace site (at least column 5, lines 61-67).

Referring to claim 8. Bezos further discloses a method wherein said broadcasting further comprises sending a client product populated template to an on-line marketplace based on the results of prior e-commerce activity (at least column 5, lines 61-67).

Referring to claim 9. Bezos further discloses a method wherein said tracking activity further comprises collecting data on number of Web site hits, click-throughs, orders and e-mail communications (at least column 13, lines 10-28).

Referring to claim 10. Bezos further discloses a method wherein said communicating activity to a client further comprises analyzing said tracked activity, producing a report and sending said report to a client (at least Fig. 1, "Report Generation SW").

Referring to claim 11. Bezos further discloses a method wherein said refining an on-line marketplace selection criteria, further comprises analyzing said tracked activity, comparing said tracked activity with a clients objectives and modifying a marketplace filter function (at least APPENDIX B).

Referring to claim 12. Bezos further discloses a method comprising collecting sales information from e-commerce buyers (at least column 13, lines 10-28).

Referring to claim 13. Bezos further discloses a method wherein said collecting sales information from e-commerce buyers further comprises collecting credit card, product, price, address and quantity information (at least Fig. 1).

Referring to claim 14. Bezos further discloses a method comprising sending e-mail to customers (at least column 1, lines 50-61).

Referring to claim 16. Bezos further discloses a method wherein said product information further comprises information selected from the group consisting of information concerning goods, information concerning services, information concerning

financial information, and information concerning information sources (at least column 8, lines 49-58).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bezos U.S. Patent No. 6,029,141, in view of Official Notice.

Referring to claims 6 and 15. Bezos discloses a method according to claim 1 as indicated supra. Bezos does not expressly disclose a method wherein said mapping product information provides a mapping between client products and multiple e-commerce marketplace sites. Bezos does discloses a method wherein an individual or business entity can register as an associate, and can then set up a Web site to market customized subsets of their product in a particular area of expertise (at least column 3, lines 8-25). Examiner takes Office Notice that these particular areas of expertise are functionally equivalent to multiple e-commerce marketplace sites. For example, it would have been obvious to have provided Bezos to have substituted particular areas of expertise with multiple e-commerce marketplace sites in order to efficiently market and sell goods in cooperation with Web sites or other network sites of respective business partners (at least column 1, lines 50-60). Moreover, to have modified the method of Bezos to have included the multiple e-commerce marketplace site would have been

obvious to the skilled artisan because the inclusion of such step would have been an obvious matter of design choice in light of the method already discloses by Bezos. Such modification would not have otherwise affected the method Bezos and would have merely represented one of numerous steps that the skilled artisan would have found obvious for the purposes already disclosed by Bezos. Additionally, applicant has not persuasively demonstrated the criticality of providing this step versus the steps discloses by Bezos.

Response to Arguments

Applicant's arguments filed on 25 November 2003 have been fully considered but they are not persuasive.

The Attorney argues that Bezos does not provide the automatic customization of the product template based on the selected e-commerce marketplace. The Attorney further argues that Bezos does not disclose features of the templates that are dynamically adjusted based on the selected group of on-line marketplaces.

The Examiner notes, Bezos does disclose a software system and method for enabling an Internet sales entity to efficiently market and sell goods in cooperation with Web sites.

The Examiner further notes, through Bezos, an individual can register as an associate, and can then set up a Web site to market customized subsets of a product (column 3, lines 8- 41). This customized subset is marketed through its customized store, whereby the store is dynamically adjusted to market its product most efficiently.

Furthermore Bezos discloses the use of PUSH Technology. PUCH Technology is an information dissemination technology used to send data to users over a network. PUSH protocols sends the informational content to the user computer automatically, typically based on information pre-specified by the user (column 5, lines 61-67).

Referring to claims 6 and 15. The applicant did not attempt to traverse the examiner's assertion of official notice, therefore the fact that particular areas of expertise are functionally equivalent to multiple e-commerce marketplace sites is taken to be admitted prior art. The Attorney's response relating to claims 6 and 15 were merely related to their dependency.

Conclusion

Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MSG

December 1, 2003

Jeffrey A. Smith
Primary Examiner